

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. NOR 42148

NORTH COAST RAILROAD AUTHORITY AND NORTHWESTERN PACIFIC RAILROAD
COMPANY v. SONOMA-MARIN AREA RAIL TRANSIT DISTRICT

Decided: October 5, 2016

On October 4, 2016, North Coast Railroad Authority (NCRA) filed a petition requesting an emergency declaratory order and preliminary injunctive relief to prevent Sonoma Marin Area Rail Transit District (SMART) from interfering with freight rail operations over portions of the Northwestern Pacific Railroad Line. (Pet. 2, 4-5, 10-11.) NCRA is the public agency created to preserve freight operations and holds the exclusive right to conduct freight operations. (Pet. 3.) The Northwest Pacific Railroad Company (NWPCo) is the freight operator. (Pet. 2.) SMART is the public agency authorized to provide commuter passenger service over portions of the line and holds the exclusive right to operate passenger service. (Pet. 2-3.) NCRA owns the Willits segment and SMART owns the Healdsburg and Lombard segments. (Pet. 2-3.) NCRA states that in 2011 it entered into an agreement with SMART granting SMART the authority to dispatch trains on the track owned by SMART, subject to the freight easement operated by NWPCo.

According to NCRA, SMART has recently begun using its dispatching authority to prohibit the movement of freight on the Northwestern Pacific Line. (Pet. 4.) For example, NCRA states that NWPCo recently requested a track warrant for 12 tanker cars and six rail cars of grain for five separate customers on the line. SMART did not approve the track warrant, effectively preventing the entire movement. (Pet. 6.) Further, NCRA alleges that SMART stated that it would not permit transportation of hazardous material without approval by its superintendent of transportation. (Pet. 6.)

NCRA asks the Board to declare that SMART may not interfere with the movement or storage of rail cars in compliance with Federal Railroad Administration regulations and is preempted from using its dispatching function or ownership status as preclearance authority for any type of cargo, and NCRA requests any further relief the Board may deem appropriate.

Due to the apparent cessation of freight rail service and NCRA's request for an expedited decision, replies will be due on an expedited schedule. Replies to the petition will be due no later than 12:00 noon Eastern Time on Thursday, October 6, 2016. The Board will also schedule a conference call with the parties, counsel, and Board staff for 3:00PM Eastern Time on Thursday, October 6, 2016. Specific information regarding the conference call will be communicated to the parties or their counsel.

It is ordered:

1. Replies to the petition are due no later than 12:00 noon Eastern Time on Thursday, October 6, 2016.
2. A conference call with the parties, counsel, and Board staff is scheduled for 3:00PM Eastern Time on Thursday, October 6, 2016.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.